

4 June 1980

MEMORANDUM FOR: Executive Secretary

FROM :

Office of General Counsel

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SUBJECT : Review of O/DCI Records

REFERENCE : ER 80-7140, undated, same subject

1. This is in response to your recent inquiry regarding certain "eyes only" DCI records--records which you wish to review and, in appropriate cases, destroy or otherwise dispose of. Subject to the qualifications set forth below, I have no legal objections to your proposed records management activities.

2. In the Reference, you are authorized to conduct a review of the O/DCI records in accordance with applicable Agency regulations governing records management. This review will include the designation of records as temporary or permanent in accordance with the schedules, the removal and destruction of duplicate documents, expired temporary records, working papers and other, non-record material and the documentation of these "eyes only" files by listing them in automated Agency inventory systems. Since the Reference is a reiteration of records management authorities you hold by virtue of your position, no legal objection can be raised to its execution by the Deputy Director of Central Intelligence. In addition, since the Reference indicates any records review and disposition is to be performed in accordance with existing internal regulatory guidance, no legal objections can be raised to the activities to be undertaken.

3. Despite the fact no legal objections are raised to your proposed review of O/DCI records, it should be emphasized that some of these records may be of legal or historical interest. This is especially true with regard to those records which memorialize the daily activities of various Directors of Central Intelligence. These records may relate to activities which are the subject of litigation, Department of Justice Inquiry, or FOIA or Privacy Act request. Accordingly, reference to the OGC Records Retention Requirements List

*/ I am referring to any records which record, in some detail, the daily activities of the DCI, such as, for example, transcriptions of DCI telephone conversations.

should be made prior to the destruction or disposition of any DCI materials. In addition, it is even more likely that certain O/DCI records may be of historical interest and should be retained for historical purposes. Since certain O/DCI documents consist of untranscribed records of DCI conversations* and other activities, care should be taken to ensure that no inadvertent destruction of historically significant documents occurs. With regard to untranscribed records of DCI conversations, it is my opinion that such records--because of their potential historical and legal importance--not be destroyed or otherwise disposed of unless the content of such records is known. While no legal requirement obliges CIA to transcribe these records at this time, neither should these documents be destroyed or disposed of unless their subject matter and contents are known. As a result, any untranscribed documents should either:

- (1) be retained in their present form, or
- (2) be transcribed and then reviewed in the same fashion as any other record.

4. Subject to the cautionary observations noted above, it is my opinion that review of O/DCI records in accordance with the Reference may be undertaken without contravention of any applicable federal law.

5. If you have any questions regarding this memorandum, please feel free to call me .

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* Telephone Conversations.